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Attorneys for Defendant

UNITED STATES DISTRICT COURT
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS SEAN CARTER,

Defendant

No. 4:19-CR-6063-SMJ-2

MOTION TO CONTINUE TRIAL DATE AND
PRE-TRIAL CONFERENCE AND RESET
DEADLINES

Note: June 19, 2020
Without Argument
Judge Mendoza at Richland

COMES now the Defendant, by and through his attorneys and requests this Court grant the defendant's Motion to Continue Pre-Trial Date and Trial Date and re-set deadlines. This matter currently is scheduled for trial on July 27, 2020. The defendant would request a trial date set at least 60 days, to September 28, 2020 to allow his counsel to review recently received discovery and interview witnesses and prepare for trial and to address issues raised by the COVID-19 virus facing the community¹.

Mr. Carter is aware of this request and will submit a signed Speedy Trial Waiver with this motion. The government does not oppose this request. Co-defendant's counsel has stated that the co-defendant opposes to this request.

¹ As Counsel stated at the Suppression Hearing on June 3 when the Court continued 20-CR-00005-SMJ to September 28, 2020, counsel has three other matters scheduled on that date.

1
2 ARGUMENT

3 The Supreme Court has stated that “broad discretion must be granted trial courts on
4 matters of continuances.” *Morris v. Slappy*, 461 U.S. 1, 11 (1983). When the defendant's sixth
5 amendment right to counsel is implicated a court must balance several factors to determine if the
6 denial [of a continuance] was “fair and reasonable.” Among the factors are: whether the
7 continuance would inconvenience witnesses, the court, counsel, or the parties; whether other
8 continuances have been granted; whether legitimate reasons exist for the delay; whether the
9 delay is the defendant's fault; and whether a denial would prejudice the defendant. *United States*
10 *v. Studley*, 783 F.2d 934, 938 (9th Cir. 1986) (quoting *United States v. Leavitt*, 608 F.2d 1290,
11 1293 (9th Cir. 1979) (per curiam))

12 The Nation is facing a national crisis due to the COVID-19 virus. This has profound
13 effects on pending trials before this Court as well as other courts. The federal courthouse in
14 Richland has been closed until June 30, 2020. Additional time is also necessary to complete
15 counsel’s investigation in this matter and further review the discovery with Mr. Carter. A denial
16 of this request to continue would severely prejudice the defendant and counsel would not be
17 prepared for trial on July 27, 2020. Clearly a continuance is warranted, and the granting of the
18 request would be proper.

19 CONCLUSION

20 For the reasons stated herein, it is respectfully request that the defendant’s Motion to
21 Continue the Trial Date and Pre-Trial be continued. It is further requested that the Pre-Trial
22 Motions Deadline be re-set.

23 Dated this 14th day of June 2020.

24 s/ Nicholas Marchi
25 NICHOLAS MARCHI
Carney & Marchi, P.S.

Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that a copy of the Motion to Continue PTC and Trial Date was e-mailed via ECF /mailed first class, postage prepaid on 6/14/2020, to S. Van Marter, Assistant United States Attorney, 402 E. Yakima, Ave., Suite 210, Yakima, WA 98901 or P.O. Box 1494 Spokane, WA 99210 and to A. Pechtel, attorney for Co-defendant, Mr. Pacheco-Robles.

s/Nicholas Marchi
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Attorneys for Defendant